



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Astro-Med, Inc.

File: B-233695.2

Date: June 12, 1989

DIGEST

Bid offering an "equal" product under a brand name or equal solicitation was properly rejected as nonresponsive where the bidder included descriptive literature for a model which did not meet the salient characteristics specified in the solicitation and added typewritten material for an alleged upgrade of the model which merely repeated the salient characteristics specified.

DECISION

Astro-Med, Inc., protests the award of a contract to Western Graphtec under invitation for bids (IFB) No. DAAA07-89-C-0016, issued by the United States Army White Sands Missile Range for strip chart recorders and related materials.

We deny the protest.

The Army originally synopsisized this requirement in the Commerce Business Daily as a sole-source acquisition from Western. After receiving a number of expressions of interest, the Army determined there might be more than one acceptable source and resynopsized the requirement calling for sealed bids using a brand name or equal description. Astro-Med protested to our Office that the salient characteristics were overly restrictive but withdrew its protest after receipt of the agency report explaining the need for the salient characteristics. Subsequently, the Army rejected Astro-Med's bid as nonresponsive and awarded a contract to Graphtec, whereupon Astro-Med filed this protest.

The Army rejected Astro-Med's offer of its model MT-9500-3 primarily because Astro-Med described its product as having "Minimum sample rate: 80KHz" and the Army could not determine that this met the 80KHz per channel salient characteristic requirement of the IFB. Astro-Med's bid

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included descriptive literature for its model MT-9500 plus added typewritten material applicable to the model MT-9500-3 being offered, which repeated the IFB's salient characteristics without providing a clear description of proposed modifications to the model MT-9500 that would have to be made to meet the IFB's salient characteristics. The model MT-9500 did not meet the specifications in several respects, including the 80KHz per channel minimum sample rate requirement.

The solicitation originally included as a salient characteristic "Minimum sample rate: 80KHz." The Army states this specification was ambiguous as evidenced by a potential bidder's request for clarification. The Army issued amendment 0001 which stated "Question: Is number 7 the minimum sample rate listed in attachment 1, 80,000 samples per second per channel? Answer: Yes." The Army states that the clarification was necessary because if the 80KHz sample rate were distributed over more than one channel a lower rate would result. For example, if the 80 KHz rate were distributed over two channels the sample rate for each channel would be 40 KHz. The Army needed a 80 KHz rate on each channel.

Astro-Med contends that by acknowledging amendment 0001 it indicated that it understood the Army's needs and confirmed Astro-Med's capability of meeting the specification. Astro-Med further contends that there was actually no change in the specification for the sample rate; it asserts that the amendment was simply a clarification for another company not well versed in the technology which was passed on by the Army for the information of all interested bidders. Astro-Med asserts that it is the technology leader in strip chart recorders and it understood that the Army wanted 80KHz per channel.

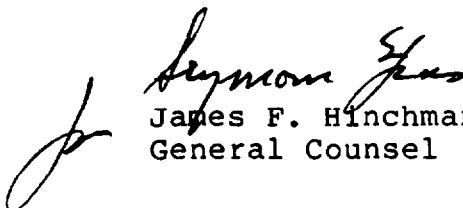
To be responsive to a brand name or equal solicitation, a bid offering an allegedly equal product must contain sufficient descriptive material to permit the contracting agency to assess whether the offered alternative possesses the salient characteristics specified in the solicitation. Rocky Mountain Trading Co., B-221060, Jan. 24, 1986, 86-1 CPD ¶ 88. The adequacy of the literature in showing compliance is a matter of responsiveness. Computer Sciences Corp., B-213134, May 14, 1984, 84-1 CPD ¶ 518. If the descriptive literature or other information reasonably available to the agency does not show compliance with all salient characteristics, the bid must be rejected. HEDCO, Hughes Electronic Devices Corp., B-221332, Apr. 7, 1986, 86-1 CPD ¶ 339. It is not enough that the bidder believes that its product is an "equal" or that the bid contains a

blanket statement that all salient characteristics will be met. R.A. Miller Industries, Inc., B-215084, Sept. 24, 1984, 84-2 CPD ¶ 332. It is also not enough for a bidder merely to quote back the listed salient characteristics without taking exception to them. Interand Corp., 66 Comp. Gen. 181 (1986), 87-1 CPD ¶ 5.

In this case, we think that the agency's determination to reject Astro-Med's bid for failure to submit sufficient descriptive literature with respect to the 80KHz sample rate per channel requirement was reasonable. The agency determined that this requirement could be met by Astro-Med's "equal" product only if the model MT-9500 described in the accompanying brochure was modified. The additional descriptive literature submitted with the bid, however, merely parroted back the IFB's salient characteristics. Nowhere in its bid does Astro-Med describe any modifications. Thus, the bid failed to comply with the express requirements of the solicitation's Brand Name or Equal clause that a bidder describe any proposed modifications and clearly mark its descriptive literature to show the modifications. Id.

Astro-Med asserts that the model offered is merely the latest upgrade of its model MT-9500, and that it included the typewritten sheets only because the descriptive brochures have not yet been printed. However, in view of the inclusion of the descriptive literature for the model MT-9500 along with typewritten additions which only parroted back the IFB salient characteristics, the agency reasonably considered the model offered as a modification of the model for which printed literature had been provided. Astro-Med's contention that it of course knew what it was doing as the leading responsible manufacturer of chart recorders does not change the fact that the bid itself did not show compliance with stated requirements.

The protest is denied.


James F. Hinchman
General Counsel